REMARKS/ARGUMENTS

Claims 1 – 3, 7 – 10, 12, and 28 have been rejected as unpatentable over Fortin, U.S.

Patent Number 6,776,249 in view of Nicholls, U.S. Patent Number 4,691,148.

Reconsideration of the rejection in view of the following remarks is respectfully requested.

Nicholls discloses a foot-operated accelerator, which develops digital signals as the

accelerator is moved through its range from a rest position to full speed. The accelerator

includes a signal generator 41 that generates a <u>4-bit code</u> (column 4 lines 62 – 63). A second

digital code is developed by an encoder 119, which receives a decimal number corresponding

to a gear ratio from a switch (Fig. 3E) and converts the decimal number to binary. The two

binary signals are then provided to a comparator, and the output of the comparator is fed to a

mode priority circuit along with brake switch signal and motor parameters. The mode

priority circuit then develops the commands in Table A. It is noted that the "two bit binary

signals" provided "to the driver 56" as shown in the right hand column of Table A includes

only two possible states "01" and "10". Nicholls, therefore, produces neither a two bit code

four digital driving states in Table A.

It is asserted in the office action that it would have been obvious to include the signal

described by Nicholls in the system of Fortin to "provide an adequate number of modes" and

to increase "efficiency and performance". Furthermore, it is asserted that the maximum of

four modes represented by a two bit code "correspond to the four different braking [sic]

modes" of the invention, and that "this signal representation is therefore very efficient for the

invention."

The thrust of this argument appears to be that, because Nicholls provides a two bit

position signal, it would be obvious for one of ordinary skill in the art to employ the position

signal from Nicholls in the system of Fortin because a two bit signal provides four different driving states, as described in Fortin. Nicholls, however, does not provide a two bit position signal, but a four bit position signal. Furthermore, the binary output signal in the right hand column of Table A includes, as described above, only two separate states. Therefore, the cited motivation for combining Fortin and Nicholls does not exist.

The office action, moreover, did not cit any passage in either reference which provides a motivation to combine the references, and the Applicants respectfully submit that no such motivation exists. Nicholls does not suggest the use of the position sensor in a pallet truck, nor in conjunction with a steering arm. Furthermore, as noted in the office action, Fortin does not suggest a two bit signal.

As no suggestion or motivation to combine these references has been provided, the Applicants respectfully submit that a prima facie case of obviousness has not been established, and the Applicants respectfully request that the rejection of claims 1 – 3, 7 – 10, 12, and 28 in view of the cited combination of Fortin and Nicholls be withdrawn.

Conclusion

In view of the foregoing arguments, the Applicants respectfully submit that claims 1-13, 17, 18, and 20 – 28 are in condition for allowance, and respectfully request that a notice of allowance for these claims be issued.

The Commissioner is authorized to charge any fees under 37 CFR § 1.17 that may be due on this application to Deposit Account 17-0055. The Commissioner is also authorized to treat this amendment and any future reply in this matter requiring a petition for an extension of time as incorporating a petition for extension of time for the appropriate length of time as provided by 37 CFR § 136(a)(3).

Respectfully submitted,

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